

**TESTIMONY OF D.C. INSPECTOR GENERAL
CHARLES C. MADDOX, ESQ.**

**Before the Subcommittee on the District of Columbia
Committee on Government Reform,
House of Representatives**

December 7, 2001

MADAM CHAIRWOMAN AND MEMBERS OF THE SUBCOMMITTEE, I
APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO
DISCUSS ISSUES THAT RELATE TO CONTINUING EFFORTS BY THE DISTRICT
OF COLUMBIA TO IMPROVE ITS PUBLIC SCHOOL SYSTEM.

ACCOMPANYING ME IS MR. WILLIAM J. DIVELLO, ASSISTANT INSPECTOR
GENERAL FOR AUDITS. TODAY I WOULD LIKE TO PROVIDE YOU A BRIEF
SUMMARY OF WORK PERFORMED BY THE OFFICE OF THE INSPECTOR
GENERAL SINCE THE ENACTMENT OF THE DISTRICT OF COLUMBIA
SCHOOL REFORM ACT OF 1995 (REFORM ACT).¹ SPECIFICALLY, I WILL
HIGHLIGHT SOME OF OUR WORK CONCERNING CURRENT FINANCIAL
MATTERS AND SPECIAL EDUCATION. IN ADDITION, I WILL DISCUSS SOME
CONCERNS REGARDING OUR ABILITY TO CONDUCT AUDITS OF CHARTER
SCHOOLS. WE HAVE EXPENDED CONSIDERABLE AUDIT AND INSPECTIONS

¹ The Reform Act is currently codified at D.C. Code, 2001 Ed. §§ 38-1800.01 – 38.1809.01.

RESOURCES REGARDING FACILITIES MAINTENANCE, PROPERTY MANAGEMENT, THE CAPITAL IMPROVEMENT PROGRAM, AND PROCUREMENT. I AM WILLING TO PROVIDE INFORMATION ABOUT THESE EFFORTS ACCORDING TO YOUR INTEREST AFTER THIS TESTIMONY.

CURRENT FINANCIAL MATTERS

IN THE LATTER PART OF FY 2001, THE CHIEF FINANCIAL OFFICER FOR DCPS IDENTIFIED REVENUE SHORTFALLS FOR MEDICAID AND OTHER OBLIGATIONS THAT, WHILE STILL SUBJECT TO A FINAL ACCOUNTING, NEGATIVELY AFFECTED OPERATIONS OF THE DISTRICT OF COLUMBIA'S PUBLIC SCHOOL SYSTEM. THE AMOUNT OF THIS SHORTFALL AND SPENDING PRESSURES, ESTIMATED RECENTLY AT A COMBINED TOTAL DEFICIT OF \$80 MILLION, WAS INITIALLY DISPUTED BY THE PRESIDENT OF THE BOARD OF EDUCATION. IN AN ATTEMPT TO RESOLVE THESE MATTERS, THE OIG ISSUED A MANAGEMENT ALERT REPORT REQUESTING THAT THE DISTRICT'S CFO PROVIDE DETAILS SURROUNDING THE POSSIBILITY OF ALL OVEROBLIGATIONS, INCLUDING A DETERMINATION OF WHETHER AN ANTI-DEFICIENCY ACT VIOLATION HAS OCCURRED. ADDITIONALLY, TO ADDRESS GROWING CONCERN OVER THE DEFICIT AND

TO DETERMINE THE EFFECT OF THE APPARENT DEFICIT ON THE CITYWIDE COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR), WE DECIDED TO EXPEDITE THE PORTION OF THE CAFR AUDIT THAT INVOLVES DCPS. WE EXPECT THE AUDIT WORK TO BE COMPLETED BY THE END OF DECEMBER, AND IT WILL BE DISTRIBUTED IMMEDIATELY SO THAT POLICYMAKERS WILL HAVE THE BENEFIT OF OUR FINDINGS FOR SHORT- AND LONG-TERM PLANNING.

IN ADDITION, WE HAVE EXPRESSED GREAT CONCERN ABOUT INDICATIONS THAT THE DC AUDITOR AND A FIRM HIRED BY THE DCPS INTENDED TO CONDUCT THEIR OWN ASSESSMENT OF THE DCPS DEFICIT. SPECIFICALLY, WE ARE CONCERNED THAT SUCH EFFORTS COULD COMPROMISE TIMELY COMPLETION OF THE CAFR. FURTHERMORE, WE ARE CONCERNED THAT THOSE EFFORTS COULD VIOLATE APPROPRIATIONS LANGUAGE WHICH RESTRICTS SPENDING OF APPROPRIATED FUNDS FOR PURPOSES OF AUDITING THE CITY'S FINANCIAL STATEMENT. SPECIFICALLY, SECTION 132 OF PUBLIC LAW 106-522 PROHIBITS THE USE OF SUCH FUNDS (AND, I QUOTE) "UNLESS THE

AUDIT IS CONDUCTED BY THE OIG.” ACCORDINGLY, ANY AUDIT EFFORTS THAT WOULD DUPLICATE THOSE PERFORMED BY THE DISTRICT’S CAFR AUDITORS, UNDER CONTRACT TO THE OIG, MAY NOT BE FINANCED BY DISTRICT FUNDS.

ON NOVEMBER 7TH AND 9TH, WE NOTIFIED THE CONGRESS AND DISTRICT LEADERS OF OUR CONCERNS AND RECOMMENDED SPECIFIC ACTIONS, INCLUDING THE RECOMMENDATION THAT BOTH THE DC AUDITOR AND DCPS SUSPEND THEIR EFFORTS UNTIL COMPLETION OF THE CAFR ON FEBRUARY 1, 2002. (COPIES OF THOSE TRANSMITTALS ARE PROVIDED FOR THE RECORD.) ON A DAILY BASIS, I WILL CONTINUE TO WORK WITH DISTRICT LEADERS TO MONITOR DEVELOPMENTS IN THIS AREA SO THAT WE CAN AVOID THIS POTENTIAL CONFLICT.

PAST, ONGOING, AND PLANNED AUDITS

WE HAVE ISSUED FINDINGS IN 17 AUDIT REPORTS AND RELATED INSPECTIONS. ALTHOUGH I CANNOT COMMENT ON PENDING INVESTIGATIONS, I CAN SAY THAT WE ALSO HAVE, AND CONTINUE TO INVESTIGATE A RANGE OF MATTERS AT DCPS.

A LIST OF THE AUDIT AND INSPECTIONS REPORTS IS INCLUDED AS AN ATTACHMENT FOR THE RECORD. WE HAVE CONSISTENTLY REVIEWED PROGRAMS AND OPERATIONS AT DCPS BECAUSE DCPS DELIVERS KEY SERVICES TO MANY DISTRICT RESIDENTS AND BECAUSE MANY OF THE EXISTING CHALLENGES AT DCPS THREATEN THE FISCAL VIABILITY OF THE DISTRICT.

SPECIAL EDUCATION

WITH REGARD TO SPECIAL EDUCATION PROGRAMS, WE HAVE COMPLETED TWO AUDITS. THE FIRST WAS COMPLETED IN CALENDAR YEAR (CY) 1999 AND THE SECOND IN CY 2000. IN OUR 1999 AUDIT, WE FOUND THAT DCPS WAS NOT IN COMPLIANCE WITH FEDERAL OR DISTRICT REGULATIONS IN THE ADMINISTRATION OF THE SPECIAL EDUCATION PROGRAM. SPECIFICALLY, DCPS DID NOT DO THE FOLLOWING: 1) EVALUATE AND PLACE SPECIAL EDUCATION STUDENTS IN A TIMELY MANNER; 2) CONDUCT DUE PROCESS HEARINGS OR IMPLEMENT DETERMINATIONS MADE BY AN INDEPENDENT HEARING OFFICER IN A TIMELY MANNER; 3) PROVIDE STUDENT RELATED SERVICES SPECIFIED IN THEIR INDIVIDUALIZED EDUCATION PROGRAMS; AND 4) REPORT

ACTIVITIES OF THE PROGRAM ANNUALLY TO THE BOARD OF EDUCATION. WE ALSO NOTED THAT DCPS DID NOT PROPERLY MAINTAIN MEDICAID RECORDS. AS A RESULT, DCPS DID NOT TIMELY SUBMIT REQUESTS FOR MEDICAID REIMBURSEMENTS, WHICH TOTALED \$14 MILLION. THIS DELAY RESULTED IN A LOSS TO THE DISTRICT OF APPROXIMATELY \$1 MILLION IN INTEREST.

OUR CY 2000 AUDIT FOCUSED ON TRANSPORTATION COSTS WITHIN THE SPECIAL EDUCATION PROGRAM. THIS AUDIT DISCLOSED THAT DCPS EXPERIENCED DIFFICULTY IN MEETING THE DEMANDS OF PROVIDING TRANSPORTATION SERVICES TO ITS SPECIAL EDUCATION STUDENTS. THIS SITUATION HAD BEEN EXACERBATED, IN PART, BECAUSE OF THE NATION-WIDE SHORTAGE OF SCHOOL BUS DRIVERS. MOREOVER, DCPS HAD NOT IMPLEMENTED MEASURES TO REDUCE TRANSPORTATION COSTS. SUCH MEASURES INCLUDE:

1. DEVisING PAIRED/SHARED BUS ROUTES;
2. IMPLEMENTING STAGGERED BELL TIMES;

3. ESTABLISHING NEIGHBORHOOD SCHOOL SPECIAL EDUCATION PROGRAMS; AND
4. DESIGNING EFFICIENT AND ECONOMICAL BUS ROUTES.

SIMILAR TYPES OF MEASURES HAVE BEEN IMPLEMENTED IN OTHER SCHOOL JURISDICTIONS WITH SIGNIFICANT SAVINGS IN TRANSPORTATION COSTS. IMPLEMENTING SUCH MEASURES COULD SAVE THE DISTRICT AT LEAST \$2.4 MILLION ANNUALLY.

WE ALSO IDENTIFIED THE FOLLOWING DEFICIENCIES IN THE ADMINISTRATION OF THE SPECIAL EDUCATION PROGRAM. THEY INCLUDE:

1. AN INACCURATE DATABASE OF SPECIAL EDUCATION STUDENTS;
2. AN INADEQUATE REVIEW OF SPECIAL EDUCATION TUITION PAYMENTS;
- AND
3. INSUFFICIENT MONITORING OF NONPUBLIC DAY SCHOOLS AND RESIDENTIAL SCHOOLS.

AS A RESULT OF INSUFFICIENT MONITORING, WE FOUND THAT STUDENTS WERE ATTENDING SCHOOLS THAT DID NOT HAVE SPECIAL EDUCATION PROGRAMS OR THAT DID NOT MEET THE REQUIREMENTS FOR PROVIDING SPECIAL EDUCATION. WE WERE ABLE TO CONFIRM THAT DCPS PAID OVER \$175,000 FOR TUITION COSTS TO SCHOOLS THAT DID NOT MEET THE STANDARDS FOR PROVIDING SPECIAL EDUCATION PROGRAMS. FACTORS CAUSING THESE CONDITIONS INCLUDE INTERNAL CONTROL WEAKNESSES SUCH AS INSUFFICIENT POLICIES, PROCEDURES, AND PERSONNEL AND THE FAILURE OF PERSONNEL TO COMPLY WITH REGULATIONS.

OTHER ACTIVITIES

IN AN EFFORT TO ENSURE THAT DCPS IMPLEMENTS THE RECOMMENDATIONS THEY AGREED TO IN OUR REPORTS, WE ARE INCLUDING DCPS IN AN ONGOING, DISTRICT-WIDE “FOLLOW-UP” AUDIT OF ACTIONS BY SEVERAL AGENCIES. WE HAVE COMPLETED FIELDWORK ON THE FOLLOWUP AUDIT AND PLAN TO ISSUE OUR REPORT BY THE END OF JANUARY 2002. IN ADDITION, WE HAVE INCLUDED IN OUR FY 2002 AUDIT AND INSPECTION PLAN A “RE-AUDIT” OF THE SPECIAL EDUCATION PROGRAM BECAUSE WE KNOW THAT MAJOR CHALLENGES REMAIN.

CHARTER SCHOOLS

WE BELIEVE THAT THERE IS AN INCREASED NEED FOR PERFORMANCE AUDITS AND FOR INSPECTIONS OF CHARTER SCHOOLS IN ORDER TO ADDRESS THE RISK FOR FRAUD, WASTE, AND MISMANAGEMENT. UNFORTUNATELY, MY OFFICE HAS NO INDEPENDENT AUTHORITY TO INITIATE AN AUDIT OR INSPECTION OF PUBLIC CHARTER SCHOOLS BECAUSE OF THE FOLLOWING RESTRICTIONS: (1) SECTION 2855(b)² OF THE REFORM ACT, WHICH LIMITS THE OPPORTUNITIES TO CONDUCT PERFORMANCE AUDITS OF CHARTER SCHOOLS TO REQUESTS FROM THE CONSENSUS COMMISSION; (2) SECTION 2002 (10)(A)³ OF THE REFORM ACT, WHICH DEFINES THE TERM “DISTRICT OF COLUMBIA GOVERNMENT, THEREBY ESTABLISHING THE PARAMETERS OF THE OIG’S JURISDICTION;” AND (3) SECTION 2002 (10)(B)⁴ OF THE REFORM ACT, WHICH SPECIFICALLY STATES THAT PUBLIC CHARTER SCHOOLS ARE NOT INCLUDED WITHIN THE DEFINITION OF THE “DISTRICT OF COLUMBIA GOVERNMENT” AND, THEREFORE, NOT SUBJECT TO THE OIG’S JURISDICTION. SECTION 2855(b)

2 Section 2855(b) is codified at D.C. Code, 2001 Ed. § 38-1808.55(b).

3 Section 2002 (10)(A) is codified at D.C. Code, 2001 Ed. § 38-1800.02 (10)(A).

4 Section 2002 (10)(B) is codified at D.C. Code, 2001 Ed. § 38-1800.02 (10)(B).

PROVIDES, IN PART, THAT THE CONSENSUS COMMISSION MAY REQUEST THE INSPECTOR GENERAL OF THE DISTRICT OF COLUMBIA “TO AUDIT THE RECORDS OF ANY PUBLIC CHARTER SCHOOL TO ASSURE, MONITOR, AND EVALUATE THE PERFORMANCE OF THE PUBLIC CHARTER SCHOOL WITH RESPECT TO THE CONTENT STANDARDS AND DISTRICTWIDE ASSESSMENTS DESCRIBED IN THE ACT.” IN ADDITION, DC CODE § 38-1802.04(c)(3)(B) STATES THAT A PUBLIC CHARTER SCHOOL “SHALL BE EXEMPT FROM DISTRICT OF COLUMBIA STATUTES, POLICIES, RULES, AND REGULATIONS ESTABLISHED FOR THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS BY THE SUPERINTENDENT, BOARD OF EDUCATION, MAYOR, DISTRICT OF COLUMBIA COUNCIL, OR AUTHORITY, EXCEPT AS OTHERWISE PROVIDED IN THE SCHOOL’S CHARTER OR THIS SUBCHAPTER.”

IF THIS LEGISLATIVE IMPEDIMENT WERE REMOVED, I WOULD INITIATE AN AUDIT, WHICH WOULD INCLUDE A REVIEW OF SUCH AREAS AS STAFF QUALIFICATIONS, TUITION REIMBURSEMENTS, AND PROCUREMENT.

IMPROVEMENTS IN THESE AREAS WOULD LIKELY HAVE A MAJOR FISCAL IMPACT AND IMPROVE SERVICE DELIVERY FOR MANY STUDENTS.

IN SUMMARY MADAM CHAIRWOMAN, I BELIEVE THAT THE WORK CONDUCTED, ONGOING, AND PLANNED BY MY OFFICE ADDRESSES IMPORTANT CONTROL AREAS THAT DIRECTLY AFFECT THE QUALITY OF LIFE FOR MANY RESIDENTS OF THIS GREAT CITY. I LOOK FORWARD TO WORKING WITH DISTRICT LEADERS TO CONTINUE DOING ALL WE CAN.

AT THIS TIME, MY STAFF AND I WILL BE PLEASED TO RESPOND TO ANY OF YOUR QUESTIONS.